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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,692	01/05/2004	Mark Steven Thomas		1691

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EXAMINER

HWANG, VICTOR KENNY

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,692

Applicant(s)

THOMAS, MARK STEVEN

Examiner

Victor K. Hwang

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a) the roller frame being adjustable to allow it to be dampened or locked (claim 5); and b) the plate that the roller rides against is curved (claim 15) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "23" identifying the chain. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "16" shown in Fig. 1; "1", "2", "3", "5", "8" and "9" shown in Fig. 2; "2", "3", "19", "21" and "37" shown in Fig. 3; "25" shown in Fig. 9; "26" shown in Fig. 12; "28" and "38" shown in Fig. 13; "29" and "30" shown in Fig. 14; "29", "30", "31" and "34" shown in Fig. 15; and "5" shown in Fig. 16. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either

“Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “36” has been used to designate both the rigger tube and the stop; and “17” has been used to designate both the chain wheel crank and the axle. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: “Stationary Rowing Machine”.

6. The disclosure is objected to because of the following informalities:

in paragraph [0019], the recitation "27 radius" on lines 7-8 presumably should be changed to --27 in. radius--;

in paragraph [0019], the recitation "700 cm" on line 8 presumably should be changed to --700 mm--;

in paragraph [0019], line 10, "were" presumably should be changed to --where--;

in paragraph [0019], line 28, the recitation "fig. 8 and 9" presumably should be changed to --Figs. 13 and 14--; and

in paragraph [0019], line 47, "loose" presumably should be changed to --lose--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. Claims 1-16 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

As a result of the indefinite and functional or operational language, it is unclear whether claims 9 and 13 are independent claims or are dependent upon claim 1. Claims 9 and 13 have been treated, for examination purposes, as being dependent upon claim 1.

Allowable Subject Matter

8. Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 2-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not disclose a rowing exercise machine comprising a set of rigging components, understood by the Examiner to include a pair of outriggers, a pair of oars, a pair of oar locks, a movable seat mounted to a track, and a foot stop; the rigging components mounted to a main frame tube having a wheel mounted at each end of the main frame tube; a drive train comprising a $\frac{1}{4}$ diameter pulley, a swivel pulley, a floating second pulley within the main frame tube, a cable running from the $\frac{1}{4}$ diameter pulley through the swivel pulley to the floating second pulley, to a second swivel pulley, and to a second $\frac{1}{4}$ diameter pulley; the drive train further comprising a chain connected at one end to the second pulley that engages a first chain crank with the other end of the chain connected to a bungee cord; a second chain crank coaxial with the first chain crank and aligned with a cassette cluster mounted to a hub of one of the wheels; rollers engaging each of the wheels to rollingly support the wheels; the rollers mounted to at least one roller frame having a hull swivel connected thereto; a base having adjustable swivel wheels to support the hull swivel; and a coupling device connecting the main tube frame and the

at least one roller frame to allow for simultaneous rolling movement and fore/aft movement of the main tube frame.

The prior art show individually, a rowing machine (*Lesbre* FR 2,730,170) having a pair of wheels fore and aft, at least one of the wheels being supported by rollers; a rowing machine (*Coffey* US Pat. 4,743,011) having rigging including $\frac{1}{4}$ diameter pulleys joined by cable and pulleys to a resistance; and an exercise machine (*Kim* US Pat. 4,958,832) having bicycle wheels resisted by rollers, the bicycle frame mounted for swiveling, rolling movement.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Goldie (US Pat. 199,432), *Walthour* (US Pat. 228,845), *Libbey* (US Pat. 335,597), *Reach* (US Pat. 368,111), *Bigger* (US Pat. 413,015), *Roessler* (US Pat. 502,467), *Nickerson* (US Pat. 580,420), *Phillips* (US Pat. 1,504,375), *Coffey* (US Pat. 4,743,011), *Augspurger et al.* (US Pat. 4,817,939), *Kim* (US Pat. 4,958,832), *Vohnout* (US Pat. 4,984,986), *Robbins* (US Pat. 5,899,780), *Lundahl* (US Pat. App. Pub. No. 2006/0122042 A1), *Gabor et al.* (CA 1,215,405), *Lesbre* (FR 2,730,170 A1), *Badarneh et al.* (WO 2004/112918 A1) and *Koz* (US Pat. 5,092,581) disclose rowing and exercise machines having structure analogous to the structure recited in the claimed invention.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.

The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence is (571) 273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor K. Hwang
November 24, 2006



(JACKIE) TAN-UYEN HO
PRIMARY EXAMINER

11/27/06